

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PAUL D. MCDONALD, <i>Pro Se</i> ,)	Case No.: 1:06 CV 380
)	
Petitioner)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
STUART HUDSON, WARDEN,)	
)	
Respondent)	<u>ORDER</u>

On February 17, 2006, Petitioner Paul D. McDonald (“Petitioner” or “McDonald”), *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition”) pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state court conviction for three counts of rape. (ECF No. 1.) McDonald alleged one ground for relief, namely, that his conviction was obtained through an involuntary guilty plea. (*Id.* ¶ 8.)

This court referred the case to Magistrate Judge Kenneth S. McHargh for preparation of a Report and Recommendation. (ECF No. 4.) On December 22, 2006, Respondent Stuart Hudson, Warden (“Respondent”) filed his Return of Writ. (ECF No. 9.) On August 9, 2006, Petitioner filed his Traverse. (ECF No. 12.) On July 12, 2007, the Magistrate Judge submitted his Report and Recommendation, recommending that McDonald’s Petition be dismissed. (ECF No. 13.) Specifically, the Magistrate Judge found that McDonald’s Petition is time-barred because it was not

filed within the one-year statute of limitations period. (*Id.* at 8); *see Carey v. Saffold*, 536 U.S. 214, 216 (2002) (citing 28 U.S.C. § 2244(d)(1)(A)). The Magistrate Judge further found that, even if McDonald had timely filed his Petition, his claim was procedurally defaulted because he failed to appeal the state trial court's denial of his motion to withdraw his guilty plea. (ECF No. 13, at 9.) On July 25, 2007, Petitioner filed his Objections to the Report and Recommendation. (ECF No. 14.)

The court finds, after careful review of the Magistrate Judge's Report and Recommendation, Petitioner's Objections, and all other relevant documents, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation. (ECF No.13.)

Consequently, McDonald's Petition is hereby denied, and final judgment is entered in favor of Respondent. The court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 27, 2007